



DR. RICHARD IZQUIERDO HEALTH & SCIENCE CHARTER SCHOOL
DUARNA OLLER, BOARD CHAIR
RICHARD BURKE, HEAD OF SCHOOL/ PRINCIPAL

June 19, 2015

Via E-Mail

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: In the matter of Request for Review by Dr. Richard C. Izquierdo Health and Science Charter School of Decision of Universal Service Administrator, dated April 21, 2015 denying Applicant's Appeal of Implementation Extension Request Deniela
CC Docket No. 02-6
Billed Entity Number 16057648
Form 471 Application: 813343
Funding Request Number: 2209847

Dear Secretary Dortch:

Pursuant to 7 C.F.R. §54.719(A-B) (2015), Dr. Richard C. Izquierdo Health and Science Charter School submits this appeal of the Decision of the Universal Service Administrator denying the school's appeal of its implementation extension request.

We respectfully request that the FCC overturn USAC's decision on appeal, and in turn grant an implementation extension of the above-referenced funding request number

Overview and Background:

The following points summarize the history of our process with USAC related to the Funding Request:

1. We are a first-term public charter school that was adding grades in 2014-15 until it is fully grown. We share (i.e., co-locate) space with other public schools in one public school building in the Bronx that is owned and managed by the New York City Department of Education (NYCDOE). The NYCDOE has established strict rules and processes through which charter schools like ours can expand into classrooms as it grows.¹ All of the classrooms that schools like ours can inhabit in an upcoming year are:

¹ <http://www.nyccharterschools.org/resources/procedures-nyc-doe-co-located-facilities> <Last accessed June 19, 2015>



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- a. Subject to approval from a host of committees, including the “Building Council” and “Shared Space Committee” onsite at each school, among others.²
 - b. Subject to a separate approval process called “charter matching” which mandates that our service provider contract is vetted and approved by the Department and its Division of School Facilities and Division of Space Planning. In this process, the DOE conducts site visits to review the scope, meets with the service provider to assure that it is responsible for completing installations according to Department guidelines, such as asbestos abatement, working during specified hours, etc., and sets the schedule for implementation.³
 - c. Usually occupied by an existing school and requires that that school vacate those spaces before we can perform any installations of cabling or access points; and
 - d. Not allowed to be accessed by a service provider or the school itself for improvement work until after a school year has been completed.
2. We filed an initial implementation extension request on September 23, 2013 to extend the deadline from September 30, 2013 to September 30, 2014. In that year, because of a school closing, we had the opportunity to receive additional classrooms in the summer of 2014, 2015 and 2016. **See Exhibit A.**
 3. On January 20, 2014, USAC granted that extension to September 30, 2014. **See Exhibit B.**
 4. Despite receiving the extension request, the service provider was only able to complete a portion of the installation because the school was unable to occupy and thus outfit the additional classrooms and offices because they were still occupied by other schools. However, we did near an agreement with NYCDOE to allow us to install and complete our network buildout for the spaces that we would assume in FY2015 and FY2016, but we were waiting on final confirmation. As the deadline neared, we submitted an implementation extension request on September 30, 2014 including a timely Form 500. **See Exhibit C.**
 5. Despite the reasoning being similar to the previous year’s request, USAC denied our implementation extension request on January 16, 2015. **See Exhibit D.**
 6. We then submitted an appeal on March 17, 2015.⁴ **See Exhibit E.** This was also denied with the following language, as seen in **Exhibit F:**

“FCC rules related to the payment of support for discounted services establish deadlines for service providers to deliver services/products to the applicant. The FCC provides an extension of this deadline under certain conditions. Those conditions are documented in the Reference area on the USAC website. (See Service Delivery Extensions for more information.) Your request did not provide information that satisfied those conditions.

² <http://schools.nyc.gov/community/campusgov/default.htm> <Last accessed June 19, 2015>

³ http://schools.nyc.gov/NR/rdonlyres/59BFFC3F-8E8D-43FE-AE16-E3CE730F6377/0/CharterRequestsforFacilitiesUpgradesDetails_3314.pdf <Last accessed June 19, 2015>

⁴ To conserve space, please note that Exhibits A-D of this appeal constitute the exact same exhibits A-D in the appeal from March 17, 2015. This Exhibit D will only include the appeal letter.



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Your appeal has not brought forth clear information establishing that those conditions were met but not considered. Therefore, your appeal is denied."

Summary of our Position:

Our bases for this appeal stem from lack of specificity and uniform applicability of USAC decisions concerning implementation extension requests and also the FCC's well-regarded history of considering the public interest, especially when an applicant meets established criteria:

Lack of Specificity

1. **USAC's rationale for denying our appeal provides no specificity on what clear information was missing.** What was unclear about the information provided that we, as the applicant, would not be granted access by the NYC Department of Education to install cabling and access points into classrooms and MDFs/IDFs that were being used by other schools until the following summer? Did we need to provide supporting documentation?
2. **Our request and appeal clearly met at least 1 criterion for an implementation extension, and we were approved for that rationale in the past for the same funding request.** A review of the Reference Area, located at <http://www.usac.org/sl/applicants/before-youre-done/delivery-extension.aspx>, established deadlines and criteria for the granting of service delivery extensions, which includes the criterion allowing for extension "because the service provider was unable to complete delivery and installation for reasons beyond the service provider's control." Our extension requested dated a year earlier on September 23, 2013, highlighted our challenges with securing the promised classrooms and delayed by one year access to those rooms. Our September 30, 2014 request, which we deliberately waited until the last possible day to facilitate negotiations with the NYC Department of Education, referenced the same challenge, but with a different set of classrooms to which we were promised access during the summer of 2014.
3. **Neither the USAC reference area on Service Delivery Extensions nor any of the Administrator decisions require documentation of the "reasons beyond the service provider's control"** Had this information been requested of us, we could provide notarized affidavits summarizing space negotiations, email communications and other documentation highlighting the specific classrooms that were affected for each school year.

Lack of uniform applicability

4. **There is no established or publicly noted limitation on the number of extension requests.** The only possible reason that we can surmise would result in a denial of an extension request would pertain to a second request. However, there is no publicly listed rule or guidance that intimates such a limitation.



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5. **USAC also granted the implementation extension appeal for a second year of another charter school applicant in the same predicament with space expansion issues.** We have attached a copy of that appeal and approval of that appeal as **Exhibits G and H**, respectively. Invictus Preparatory Charter School (BEN: 16063965) faced the exact same predicament afflicting our service provider's ability to complete the installation: lack of access to classrooms as dictated by the NYC Department of Education charter matching process, and it received a second year extension that we did not receive. To deny us an opportunity, without explanation of how our circumstances may differ or without any specific detailing of what made our requests insufficient, does not appear to be, at best, a consistent application of internal guidelines concerning service delivery extensions.

Consideration of the public interest and meeting of USAC criteria

6. The school's request for an extension is a bona fide request for an implementation extension because of circumstances beyond the service provider's control. The commitment amount approved by USAC encompasses the cost of a complete network buildout of a grades 6-12 charter middle and high school. Our negotiations with the NYCDOE in 2011 included assurances that we would occupy almost all of the space or know all of the classrooms that we would occupy so that the service provider can complete the work. Unfortunately, because of circumstances beyond both the service provider's and the school's control, our expansion into these spaces became a year-to-year process, as classrooms and offices that our school was supposed to inhabit are changed, modified, expanded or reduced. We would appreciate this extension so that we can fully outfit our middle and high school with already approved funding. This not only serves the public interest by meeting our students' needs but also by allowing us to cancel any Category funding requests in future years, which then allows at least one additional applicant much-needed Category 2 resources.

Conclusion

The key issue for review in this appeal is that if USAC consistently applied the same standard for approving implementation extension requests, we and other similar schools in our position will have sufficient funding, already approved and earmarked by USAC, to complete our installations. Our implementation extension request rests on circumstances truly out of our service provider's control, given that our ability to expand into classrooms and offices depends on being granted access by the NYCDOE after they have completed their vetting of the service provider and completed other compliance requirements.

We understand the purpose of the program deadlines and requirements so that USAC can expedite resources to high-needs schools as our own. We have always fully intended to adhere to them and have not broken any Commission rule. In fact,



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We appreciate your consideration of this appeal. If you have any additional questions or require more documentation concerning our appeal, please do not hesitate me at mzapata@drihscs.org or 718-378-0490 ext. 214. Paul Le (erate@charterschoolincubator.org and 347.772.8553) assisted us with our applications and appeals, and can also provide additional answers as needed.

Sincerely,


Michelle Zapata
Director of Operations

Attachments:

#	<i>Exhibit</i>
A	September 23, 2013 Implementation Extension Request
B	January 20, 2014 USAC Letter Approving Implementation Extension Request
C	September 29, 2014 Implementation Extension Request and Form 500
D	January 16, 2015 USAC Letter Denying Implementation Extension Request
E	March 17, 2015 Appeal to USAC
F	April 21, 2015 USAC Denial of Appeal
G	March 17, 2015 Appeal by Invictus Preparatory Charter School to USAC
H	April 29, 2015 USAC Approval of Appeal by Invictus Preparatory Charter School